

DIRECTIVE

WORKFORCE INVESTMENT ACT

Number: WIAD05-13

Date: February 9, 2006

CWIB/69:162:jw:9717

TO: WORKFORCE DEVELOPMENT COMMUNITY

SUBJECT: WIA WAIVER REQUEST PROCESS

EXECUTIVE SUMMARY:

Purpose:

The purpose of this directive is to disseminate the approved procedure and to solicit Workforce Investment Act (WIA) waiver requests from Local Workforce Investment Boards and other interested parties for consideration by the California Workforce Investment Board (State Board). This directive provides guidance for Local Workforce Investment Boards (local board) and partners throughout California regarding the State Board waiver request process.

Scope:

This directive applies to the California Workforce Development Community.

Effective Date:

This directive is effective upon release.

REFERENCES:

- WIA Section 189 (i)(4)
- Title 20 Code of Federal Regulations (CFR) Sections 661.400, 661.410 and 661.420

STATE-IMPOSED REQUIREMENTS:

This directive contains only State-imposed requirements.

FILING INSTRUCTIONS:

This directive finalizes WIA Draft Directive WIADD-110, issued for comment on December 22, 2005. The State Board received two comments during the draft comment period. This final directive incorporates substantive comments that are

viewed as highlighted text. The highlighted text will remain on the Internet for 30 days from the issuance date. Retain this directive until further notice.

BACKGROUND:

The WIA of 1998 provides general statutory and regulatory waiver authority, with some exceptions, to ensure that states and Local Workforce Investment Areas (local area) are allowed flexibility in implementing WIA programs. In preparation for approval by the Governor, waivers may be initiated by State agencies, local areas, or other interested parties. Waiver requests are prepared using specific criteria required by the U.S. Department of Labor (DOL) as outlined in CFR Sections 661.400, 661.410, and 661.420. Further information regarding federal requirements for application for WIA waivers is available on [DOL's Web site](#).

Upon approval by the Governor, the State forwards the waiver requests to the DOL, which has granted waivers of statutory requirements to California on two occasions since the implementation of the WIA. While waivers can be requested and filed on an ongoing basis, the following is a general procedure for filing annual waiver requests and completing a State waiver package for consideration by the DOL. The State's preference is that all waiver requests be included in the annual State waiver package that is to be submitted during the 5-month solicitation "window" described in the Proposed Timeline below. It should be noted, however, that this general procedure for developing and submitting an annual State waiver package is not intended to preclude individual waiver requests from being submitted and processed at any time due to unusual circumstances or emergencies.

References to "State staff" in the following process description include State Board staff and/or Employment Development Department (EDD) staff (responsibilities yet to be determined).

POLICY AND PROCEDURES:

On November 30, 2005, the State Board approved a procedure for the State to annually solicit, review, and develop WIA annual waiver requests for submission to the DOL.

This directive provides policy and procedures for filing a WIA annual waiver request. The procedure includes an approved timeline for soliciting and processing waiver requests. The approved timeline allows for an annual solicitation period that extends from July 1 through November 30. However, due to the State Board's approval of the procedure and timeline coinciding with the November 30 close of the solicitation period, the State Board extended the solicitation period for waivers for PY 2006–07 to January 31, 2006.

In subsequent years, the annual deadline for submitting waiver requests to the State Board will be November 30th. This deadline is not intended to preclude individual waiver requests from being submitted and processed at any time due to unusual circumstances or emergencies. When these situations occur, any submitted waiver requests will be processed on a case-by-case basis.

Solicitation for Waiver Requests

The State will entertain waiver requests by soliciting input and suggestions from local areas and other interested parties on an annual basis. The solicitation will be conducted through the EDD's online distribution of directives to the workforce community, posting on the State Board Web site, announcements at State Board meetings conducted during this time period, conference calls with the State's Local Area Advisory Committee, and print media. The solicitation will include information for developing a waiver request that meets the CFR requirements in Sections 661.400, 661.410, and 661.420; and a deadline for providing sufficient information for consideration of the waiver during that program year's annual request process.

Preparation and Submission of Waiver Requests

With technical assistance from State staff, requesters will be responsible, for providing sufficient information that:

- (1) Identifies the statutory or regulatory requirements (CFR Sections 661.400, 661.410, and 661.420) that are requested to be waived, and the goals that the State or local area, as appropriate, intends to achieve as a result of receiving the waiver;
- (2) Describes the actions that the State or local area, as appropriate, has undertaken to remove State or local statutory or regulatory barriers;
- (3) Describes the goals of the waiver and the expected programmatic outcomes if the request is granted; and
- (4) Describes the individuals impacted by the waiver.

Completed waiver requests may be mailed or hand delivered to the following address:

ATTN: WIA Waiver Requests
California Workforce Investment Board
777 12th Street, Suite 200
Sacramento, CA 95814

All completed waiver request submissions will be considered by a technical work team, which will review them for statewide applicability and improvement of WIA programs. The work team will then forward them, as a package, to the State Board's Administration Committee for consideration.

Initial Review and Assessment

A State ad hoc waiver work team will be convened through in-person meetings or conference calls that include representatives of the workforce community and State staff. The California Workforce Association will provide suggestions for local area representation. The work team will review all waiver requests and ensure that each request contains sufficient information as required by the DOL. The work team will

analyze each draft request and select those waivers that best meet the DOL requirements and release the entire package for public comment, and forward the package of waiver requests, public comments, and recommendations to the State Board's Administrative Committee.

Public Comment Process

Before the Administrative Committee is provided the package and recommendations, the State will conduct a public comment process for the draft waiver requests. The public comment process will ensure that the Administrative Committee, and ultimately the State Board and the Governor, are aware of the potential implications a waiver has for the public workforce investment system (e.g., services to workers and businesses). Announcement for public review of the State's waiver request package will be made through all means used for the initial waiver solicitation. The State will entertain comments on the proposed waivers from the general public during a 30-day comment period.

The package will be posted online for comment through the State Board and EDD Web sites. The document will also be available in print format and available to members of the general public through requests to the State Board or the EDD. Comments can be received through online communication or in writing to the State Board or the EDD.

Final Review and Transmittal

State staff will compile all public comments for review and consideration by the ad hoc waivers work team. The work team will amend waiver requests as necessary based upon public comments, and develop a description of the process by which notice and an opportunity to comment has been provided to the local boards in the State waiver package.

If substantive opposition to the waiver request is received through public comments, the work team will evaluate all material submitted, prepare an analysis of any opposition to the package or to an individual waiver request, and forward the package, the public comments, the analysis, and recommendations to the Administrative Committee. The Administrative Committee, in consultation with EDD management and the Labor and Workforce Development Agency (LWDA), will select those waiver requests to be prepared in final form and forwarded to the DOL for consideration.

State staff will prepare the final waiver package for LWDA's consideration and the Governor's signature. Once approved and signed, State staff will file online requests for waivers with the DOL, with a copy to Region VI. The DOL must review and approve/deny the waiver request within 90 days of its submission.

Proposed Timeline

Activity	Duration	Estimated Timeline
<i>Solicitation of Waivers:</i> The State will solicit waiver requests from local areas through directives to the workforce community, announcements on the State Board Web site and at State Board public meetings, and conference calls with the State's Local Area Advisory Committee.	Ongoing through November	Beginning July
<i>Receipt and Analysis of Suggested Waivers:</i> The State will convene an ad hoc waiver work team (including representatives of the workforce community and State staff). The work team will review all waiver requests and forward waivers it recommends for further consideration to the State Board's Administrative Committee.	One Month	December
<i>Public Comment Process:</i> The State will entertain comments on the proposed waivers from the general public during a 30-day comment period.	One Month	January
<i>Final Review:</i> State Board's Administrative Committee, in consultation with EDD management, will select waiver requests to be prepared and forwarded to DOL for consideration.	One Month	February
<i>Transmittal:</i> State staff will prepare administrative requests for LWDA consideration and the Governor's signature. State staff will file an online request for waivers with DOL.	One Month	March
<i>DOL Decision:</i> The State expects DOL to respond to the State within 90 days.	One to Three Months	April - June

ACTION:

Bring this directive to the immediate attention of all concerned parties.

INQUIRIES:

If you have any questions, please contact your [Regional Advisor](#) at (916) 654-7799 or John Bohart from the State Board at (916) 324-3293.

/S/ BOB HERMSMEIER
Chief
Workforce Investment Division